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coverage or for not providing equivalent substitutes, a contract may be awarded or extended. Headquarters' staff review and recommendation shall be based on such factors as—

(i) The specific provisions of the unemployment compensation law of the State;

(ii) The extent to which the establishment of special conditions on DOE work may have an adverse effect on the contractor's general policies and operating costs in its private operations;

(iii) The numerical relationship between the contractor's private work force and its employees performing only work for DOE;

(iv) The contractor's record with respect to work force stability and the general outlook with respect to future work force stability;

(v) In a replacement contractor situation, whether or not the prior contractor had coverage or suitable substitutes; and

(vi) The particular labor relations implications involved.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36372, July 22, 2009]

Subpart 970.23—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety and Drug-Free Work Place

970.2301 Sustainable acquisition.

970.2301-1 Policy.

There are many environmentally beneficial and resource efficient programs described in various subparts of FAR Part 23. For ease of use, DOE refers to all of these as the DOE Sustainable Acquisition Program with guidance for the many products at <http://www.hss.energy.gov/pp/epp>. Contractors operating DOE facilities shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance. The contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, *Acquisition Considerations Regarding Fed-*

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eral Leadership in Environmental, Energy, and Economic Performance.

[75 FR 57695, Sept. 22, 2010]

970.2301-2 Contract clauses.

(a) Section 3(f) of Executive Order 13423 requires contractors to comply with the provisions of the Order to the same extent as the Federal agency would be required to comply if it operated the facility or fleet. Insert the clause at 970.5223-6, Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, in such contracts.

(b) Insert the clause at 970.5223-6, Sustainable and Environmentally Preferable Purchasing Practices, or its Alternate I in contracts for the management and operation of DOE facilities, or other contracts under which the contractor manages Government facilities or fleets, or conducts mission operations at Government facilities, or performs construction at DOE facilities. Inclusion of this contract clause applies to contractors that are responsible for the management and operation of the DOE's facilities or the conduct of mission operations at the Department's facilities, including elements of the National Nuclear Security Administration (NNSA), the Power Marketing Administrations, and the National Laboratories. All such contracts should also include the following clauses: FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223-10, Waste Reduction Program; FAR 52.223-XX, Compliance with Environmental Management Systems (see 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223-15, Energy Efficiency in Energy Consuming Products; and FAR 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

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